

IN THE UNITED STATES DISTRICT COURT
FOR THE Southern DISTRICT OF TEXAS
Houston DIVISION

United States Courts
Southern District of Texas
FILED

MAY 16 2018

Form To Be Used By A Prisoner in Filing a Complaint
Under the Civil Rights Act, 42 U.S.C. § 1983

David J. Bradley, Clerk of Court

Calvin Edward WEAVER

Plaintiff's name and ID Number

00820796

Place of Confinement

CASE NO: _____

(Clerk will assign the number)

v.

Bryan Collier, Executive Director Et. Al.

Defendant's name and address

Texas Department Of Criminal Justice
Two Financial Plaza Suite 625

Defendant's name and address

Huntsville Texas 77340

Defendant's name and address

(DO NOT USE "ET AL.")

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INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the Clerk of the United States Court for the appropriate District of Texas in the Division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. The list labeled as "VENUE LIST" is posted in your unit law library. It is a list of Texas prison units indicating the appropriate District Court, the Division and an address of the Divisional Clerks.

FILING FEE AND IN FORMA PAUPERIS (IFP)

1. In order for your complaint to be filed, it must be accompanied by the statutory filing fee of \$350.00 plus an administrative fee of \$50.00 for a total fee of **\$400.00**.
2. If you do not have the necessary funds to pay the fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis*, setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six-month history of your inmate trust account. If you are an inmate in TDCJ-CID, you can acquire the application to proceed *in forma pauperis* and the certificate of inmate trust account, also known as *in forma pauperis* data sheet, from the law library at your prison unit.
3. The Prison Litigation Reform Act of 1995 (PLRA) provides "... if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." See 28 U.S.C. § 1915. Thus, the court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the court will apply 28 U.S.C. § 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your inmate trust account, until the entire \$350.00 statutory filing fee has been paid. (The \$50.00 administrative fee does not apply to cases proceeding *in forma pauperis*.)
4. If you intend to seek *in forma pauperis* status, do not send your complaint without an application to proceed *in forma pauperis* and the certificate of inmate trust account. Complete all essential paperwork before submitting it to the court.

CHANGE OF ADDRESS

It is your responsibility to inform the court of any change of address and its effective date. Such notice should be marked "**NOTICE TO THE COURT OF CHANGE OF ADDRESS**" and shall not include any motion for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

I. PREVIOUS LAWSUITS:

- A. Have you filed *any* other lawsuit in state or federal court relating to your imprisonment? YES ☒ NO
- B. If your answer to "A" is "yes," describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)
 1. Approximate date of filing lawsuit: _____
 2. Parties to previous lawsuit:

Plaintiff(s) _____

Defendant(s) _____
 3. Court: (If federal, name the district; if state, name the county.) _____
 4. Cause number: _____
 5. Name of judge to whom case was assigned: _____
 6. Disposition: (Was the case dismissed, appealed, still pending?) _____
 7. Approximate date of disposition: _____

II. PLACE OF PRESENT CONFINEMENT: CT. Terrell Unit 1300 FM 655 Rosharon, TX 77583

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted all steps of the institutional grievance procedure? X YES NO

Attach a copy of your final step of the grievance procedure with the response supplied by the institution.

IV. PARTIES TO THIS SUIT:

A. Name and address of plaintiff: Calvin E. Weaver C.T. Terrell Unit
1300 FM 655 Rosharon, TX 77583

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: Bryan Collier Executive Director TDCJ

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

After being personally apprised of the situation, Mr. Colliers office issued a denial of the petitioners request and fabricated false information

Defendant #2: Warden Comstock C.T. Terrell Unit

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Failed to provide adequate procedural modifications to urgent care needs to his attorney.

Defendant #3: Kwabena Owusu M.D. care Provider

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Failed to report inhumane policy instituted by contaminated blanket use.

Defendant #4: Jose Gonzalez-Senior Practice Manager

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Ignored repeated outcries by petitioner for relief from extreme pain and suffering.

Defendant #5: James E Blake- Major Unit Supervison

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Ignored repeated written, and Oral request for assistance in gaining medical treatment, and therapy for his extreme allergic reaction.

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

Petitioner was first diagnosed by Texas Tech University on the Allred unit in 2001 (approx) as being hyper-allergic to the wool blanket issued by TDCJ. At that time, he was issued a medical pass providing him with cotton blanket. In 2009 his pass was not renewed and TDCJ replaced their blankets with a recycled blend of waste, by-products system-wide requiring all previous allergic patients to utilize the new blended fiber blankets. Petitioner Weavers condition was not abated by the use of the new blankets but was indeed worsened by the forced exposure to the (continued on extra page 1)

VI. RELIEF:

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

See Extra Page 1 Attached

VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases.
Calvin Edward Weaver

B. List all TDCJ-CID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you.

00820796

VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? YES X NO

B. If your answer is "yes," give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division):

2. Case number:

3. Approximate date sanctions were imposed:

4. Have the sanctions been lifted or otherwise satisfied? YES NO

Extra
~~Exhibit~~ page-1

page-4

V. Allergens contained in the new fiber blended blankets. Petitioner entered into a ten year battle with prison security, and medical personal in which he suffered immeasurable pain, and suffering due to unrelenting itching which caused acute and prolonged open sores, sleep deprivation, hypertension, and high anxiety. Petitioner has in his possession a voluminous record of the abuse which is underscored by irrefutable written records of malice, deliberate indifference, and absolute denial of due process in the denial of the services alleged. The harm and the danger created by his exposure to the contaminant continues to the present time.

VI.

Relief

Injunctive*-Immediate removal, and replacement of allergen-containing fiber blended blankets with cotton blankets, and a complete 3rd party medical evaluation to discover any residual or accumulative effects from exposure to the toxic materials.

punative-Such sanctions, and monetary awards as the court may deem appropriate for emotional, and physical pain, and suffering incurred by the deliberate indifference documented in correspondence and grievances petitioner has in his possession. *For 10 winters.*

Installation of training and Procedural Safeguards-To prevent future denial of adequate, and appropriate medical treatment, and therapy for the petitioner and all others similarly situated.

- C. Has any court ever warned or notified you that sanctions could be imposed? YES ☒ NO
- D. If your answer is "yes," give the following information for every lawsuit in which a warning was issued. (If more than one, use another piece of paper and answer the same questions.)
1. Court that issued warning (if federal, give the district and division): _____
 2. Case number: _____
 3. Approximate date warning was issued: _____

Executed on: _____
DATE

(Signature of Plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand, if I am released or transferred, it is my responsibility to keep the court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions or appeals (from a judgment in a civil action) in a court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire filing fee and costs assessed by the court, which shall be deducted in accordance with the law from my inmate trust account by my custodian until the filing fee is paid.

Signed this 14th day of May, 20 18.
(Day) (month) (year)

Calvin E. Weaver
(Signature of Plaintiff)

WARNING: Plaintiff is advised any false or deliberately misleading information provided in response to the above questions may result in the imposition of sanctions. The sanctions the court may impose include, but are not limited to, monetary sanctions and the dismissal of this action with prejudice.

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TEXAS DEPARTMENT OF CRIMINAL JUSTICE
RECORDS RELEASE
AUTHORIZATION

David J. Bradley, Clerk of Court

I, the below named and numbered offender, hereby authorize the Texas Department of Criminal Justice to release records pertaining to my trust fund account, as requested by Colvin E. Weaver (Identify Court, Attorney, or entity as defined in Rule 3.9.2.1 – Special Correspondence Rules).

I, Offender Colvin E. Weaver, TDCJ # 820796,
being presently incarcerated at the C.T. Terrell Unit/Facility of the
Texas Department of Criminal Justice, in Rosharon County, Texas
declare under penalty of perjury that the foregoing is true and correct.

Executed on this the 14 day of May 20 18

By: Colvin E. Weaver
(Offender Signature)

Witness: [Signature]
(Approved- Witnessing Authority Signature)

INSTRUCTIONS:

1. The offender completes the above information, signs and dates the Records Release Authorization in the presence of the approved witnessing authority (Access to Courts Representative).
2. The witnessing authority identifies the offender by ID card or records and, upon verification, witnesses the offender's signature by signing the Records Release Authorization, which witnessing authority will maintain.
3. The witnessing authority prints out a copy of the offender's "TFBA" computer screen, certifies it, and retains a duplicate copy for their records.
4. The offender is required to have an addressed, stamped envelope prepared for mailing. The witnessing authority then places a copy of the certified "TFBA" printout in the addressed and stamped envelope and the envelope is sealed and placed in the outgoing mail.



Texas Department of Criminal Justice

STEP 2

OFFENDER
GRIEVANCE FORM

Offender Name: Calvin E. Weaver TDCJ # 820796
 Unit: Prison Housing Assignment: A1-13
 Unit where incident occurred: Terrell

OFFICE USE ONLY

Grievance #: 2018059431
 UGI Recd Date: FEB 06 2018
 HQ Recd Date: FEB 08 2018
 Date Due: 3-23
 Grievance Code: 602
 Investigator ID#: I0352
 Extension Date: _____

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be Specific). I am dissatisfied with the response at Step 1 because...

First off I errored on date Kuyink gave me a pass for cotton blankets, it was 11/12/15.

It seems that no one in TDCJ nor UTM B realizes the difference in wool and Fiber blankets. What ever the blankets actually has I am very allergic to those blankets.

Please note I do not say wool or Fiber or Fibers.

I have been talking to people outside of prison there are 10-15 people that has these Cotton Blankets. Yes TDCJ does issue them.

Offender Signature: Dorin E. WeaverDate: 1/30/18

Grievance Response:

A review of the Step 1 medical grievance has been completed regarding your complaint you are being denied a cotton blanket pass.

After a review of the grievance and clinical records, this office supports the findings in the Step 1 medical grievance response. There is no record you were seen on 11/12/2017 or that the provider ordered you a cotton blanket pass. You were seen on 11-27-2017, which you were requesting extra bed sheets. The provider stated there was no indication for extra bed sheets. Medical does not give passes for cotton blankets anymore since TDCJ does not issue wool blankets.

No further action is warranted from this office through grievance process at this time. If you feel your situation requires further evaluation, you are advised to submit a Sick Call Request to the medical department.

STEP II MEDICAL GRIEVANCE PROGRAM
OFFICE OF PROFESSIONAL STANDARDS
TDCJ HEALTH SERVICES DIVISION

Signature Authority: _____

Date: 2-12-18Returned because: **Resubmit this form when corrections are made.*

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.*
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments.*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.*

CGO Staff Signature: _____

OFFICE USE ONLY**Initial Submission****CGO Initials:** _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

2nd Submission **CGO Initials:** _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

3rd Submission **CGO Initials:** _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____